

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUAN RAMON TORRES, *et al.*,

§

Plaintiffs,

§

VS.

CIVIL ACTION NO. 4:09-CV-2056

SGE MANAGEMENT LLC, *et al.*,

§

Defendants.

§

ORDER

Before the Court are a series of motions to strike or exclude the testimony of witnesses that are sponsored by either the plaintiffs or the defendants. These motions, responses, replies and attachments have been reviewed by the Court and the Court determines that the following rulings shall be made without prejudice to the Court's determination to modify or change its ruling based on evidence or law:

- (a) the plaintiffs' motion to strike the affidavit of Darryl Smith [Dkt. No. 141] based on allegations that it is merely conclusory is Denied. While the affidavit relies upon the language of written Ignite Compensation Plan(s) and adds little or nothing to the legal discourse, the Court receives it as it would testimony in court subject to objections. Hence, the plaintiffs' objections are taken under advisement.
- (b) the plaintiffs' motion to strike the expert report and testimony of Paul D. Carmona [Dkt. No. 148] is Granted, at least in part. Carmona's opinion invades the province of jury since whether a pyramid exists is based in disputed question of fact.
- (c) the defendants' motion to exclude the testimony of Paul H. Taylor [Dkt. No. 145] is Denied. In the motion, the defendant set out eight bases for excluding Taylor's testimony and opinions. None of the bases, alone or together, support exclusion but, instead speak to the weight, if any, to be granted Taylor's testimony.

(d) the plaintiffs' motion to strike the expert testimony and support of Anne T. Coughlan [Dkt. No. 142] is Granted, at least in part. As observed regarding the testimony of Paul D. Carmona, any testimony that would deny the jury the right to make the factual call of whether a pyramid exists will be excluded.

It is so Ordered.

SIGNED on this 6th day of January, 2014.



Kenneth M. Hoyt
United States District Judge